

Attachment 1

Destek's Oral Argument in Docket 01-151 02-06-02

Good Afternoon Commissioners:

Thank you for this opportunity.

It is my pleasure to come before you today and to present my perspective in the matter of Verizon's application, to enter the New Hampshire long distance market.

I am the president of a small, New Hampshire based, networking services firm that has for the last seven years, helped New Hampshire businesses, municipalities, and schools connect to the Internet and build very sophisticated wide-area-networks. My company, Destek, ordered NH's first frame relay circuit from NYNEX in 1994 and we delivered the first dedicated Internet access circuit to a North Country High School in 1995. Today we serve over one hundred NH schools and as many NH businesses.

As one of the very first competitors in the NH telecommunications market our experiences will hopefully provide you with valuable information for your analysis of Verizon's inclination and efforts to open the New Hampshire market to fair competition. In the last seven years Destek has been a witness to, and a victim of, both the best and the worst aspects of competing with Nynex, Bell Atlantic, and now Verizon.

The objective of this hearing, as we understand it, is to answer three simple questions:

- Has Verizon opened the New Hampshire market to the competition?
- Is Verizon playing fair and operating in the public's interest?
- Has Verizon earned the right to enter the lucrative long distance market?

In our opinion the answer to all three questions is a resounding NO !

You can see the results of Verizon's manner of competing in the wasteland of defunct would-be-competitors. The amount of evidence regarding Verizon's anti-competitive behavior and predatory tactics is overwhelming and the charges of cheating as opposed to competing are widely covered in the daily news (see attachment)

The goal of the Telecommunications Act of 1996 was to give everyone an opportunity to compete in the telecommunications market. The underlying objective was to reduce the cost to the consumer, to increase the number of consumer choices, and to help ensure the quality of service through competition. Fundamentally the law was created to allow natural market forces to drive the economics and to satisfy the demand of the American consumer, for advanced telecommunications services.

One might ask, Why did we need a law to open the telecommunications market to the forces of competition? The answer can be summed up in one word, Monopoly. The telephone company had again become so formidable a force that another Federal Law had to be written to promote and to protect the competition. As their parent company had accomplished prior to 1984, by 1996 the Bell Operating Companies had amassed too much control of the product, the price, and the quality of service. It was necessary for the government to step in again, and to enact a law that would make them open the market and compete, rather than control.

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Since 1996, the shape of the telecommunications industry has changed dramatically. New Hampshire and the world have seen tremendous growth in the number of telecom competitors, and of late we have seen the industry go bust and take with it the hopes of many of those who wished to compete.

Today Verizon comes before you, asking to collect on a promise that was built into the 1996 Telecommunications Act, the Quid Pro Quo for their part in making the industry boom. They wish to be allowed to compete in the long distance market, and they are telling you now that they have done all they could to open the captive NH market and to foster competition.

However, the facts speak for themselves; the evidence presented by the CLECs weighs in very heavily against Verizon. They are guilty of stifling competition, of denying competitors access to basic raw materials, and of using their monopoly power and wealth to influence the political and regulatory processes in NH.

For three and one-half years Verizon paid one of their executives a six-figure salary to be a footman for the NH Governor. They have drafted and lobbied into place no fewer than five NH laws, for their sole benefit. They are currently fighting to avoid selling dry copper circuits that would help relieve the life-threatening congestion on the public telephone network. They refuse to bring high-speed Internet to rural NH and refuse to provide a Dry Copper tariff that would allow Independent ISPs to do so.

I would like to add that we believe that access to Dry Copper is an entitlement given to ISPs by the Federal Communication Commission through a little known Act called the Open Network Architecture (ONA). This act requires all Incumbent Local Exchange Carriers (ILECS), including Verizon, to make available what the FCC calls "Basic Service Elements" (BSEs), which include "Dry Copper Loops" and "Conditioning". Unfortunately, Verizon has also managed to avoid compliance with the ONA and offers no means for ISPs to actually purchase BSEs.

In conclusion, based on our experiences and on the information at hand, we feel very strongly that it is the Commissioner's responsibility to deny Verizon's application. We contend that a decision in Verizon's favor would not achieve the goal of the 1996 Act and would remove the only leverage remaining that can help ensure us that Verizon will someday open the market and compete fairly in New Hampshire.

We would also respectfully ask the Commissioners to consider:

- Structural separation of the wholesale and retail divisions of Verizon NH
- Conducting a long over due rate case
- Ordering the modification of the Series 1000 (BANA or Alarm) circuit tariff so that the competition can help relieve the congestion and also deliver high-speed Internet to rural New Hampshire